IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5509 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

N J PANDYA

Appearance:

MR HARDIK C RAWAL for Petitioner

MR JS BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 18/07/2000

ORAL JUDGEMENT

The respondent was working as Art-C Electrician with petitioner Gujarat State Road Transport Corporation (GSRTC). The job of the respondent was to work as assistant of Wagon No. 9888, but respondent was not

performing the work properly. On 16-4-1993 when he was asked to perform his duty by his superiors, he misbehaved with them and used abusive language to his superior officers. For this misconduct disciplinary proceeding was started against the respondent. The misconduct was proved during the proceeding and disciplinary authority of the Corporation after hearing the respondent reduced his basic pay by two stages from Rs.1749/- to Rs.1665/by order dated 25-4-1994. The respondent moved the authority for referring the dispute regarding his reduction of pay by two stages . Accordingly the dispute was referred to the Industrial Tribunal, Vadodara, where the reference has been registered as Reference (I.T.) No. 176 of 1994. The Industrial Tribunal, Vadodara, after hearing the parties set aside the order of the disciplinary authority dated 25-4-94, and directed the GSRTC to pay his salary as if no order of reducing his pay by two stages have been passed by the authority. Having felt aggrieved by the order of the Industrial Tribunal, Vadodara, by its award dated 22-10-1999, the Corporation has filed the present petition for quashing the order of the Tribunal.

2. I have heard learned counsel Mr. H.C. Rawal appearing on behalf of GSRTC. Learned counsel submitted that the respondent has committed serious misconduct by misbehaving with superior officers and by using abusive language and if such misconduct goes unpunished, then it would be very difficult for the authority to maintain discipline in the Corporation. Learned counsel accordingly submitted that the Tribunal has committed an error in taking lightly the misbehaviour of the respondent. Mr. Rawal also submitted that if serious actions are not taken on such incidents then it would be difficult to run the office smoothly. Mr. Rawal accordingly submitted that the penalty of reduction of pay by two stages was not a major penalty which requires interference by the Tribunal. Consequently Mr. Rawal submitted that since the tribunal has taken a too liberal view in the matter of punishment of the respondent, the order of the Tribunal be quashed.

3. I have heard Mr. Brahmbhatt, learned counsel appearing on behalf of the respondent. Learned counsel submitted that there were irregularities in the proceedings conducted by the disciplinary authority. The respondent has not been given proper opportunity for defending the case. Learned counsel accordingly submitted that the Industrial Tribunal has taken in to consideration the entire facts & circumstances of the case and has come to the conclusion that the penalty

imposed by the authority is erroneous and incorrect, and therefore, quashed the order of the authority. Learned counsel accordingly submitted that, since the Tribunal has taken decision after considering materials on record, there is no ground to interfere with the judgment & award passed by the Tribunal.

4. I have considered submissions of learned counsel of both the parties. It is on record that the respondent has misbehaved with his senior officers. If such conduct of the subordinate staff is taken lightly, then, I am of the view that, it would be difficult for the Corporation to manage its office affairs smoothly. Misbehaviour by subordinates with their superior officers should not have taken lightly by the Tribunal. It appears that the respondent has already retired from service. Therefore, I am of the view that the misconduct committed during the period of his service should not go unpunished. Therefore, I am of the view that, withholding of one increment with cumulative effect from the date of passing of the order by the disciplinary authority on 25-4-1994 will meet the ends of justice. Accordingly the order of the Industrial Tribunal, Vadodara is modified to the extent that one increment of the respondent Mr. N.J. Pandya shall be withheld with cumulative effect from the date of the original order passed by the disciplinary authority on 25-4-1994. With the aforesaid modification the petition is allowed partly. Rule made absolute to the aforesaid extent. I make no order as to costs.

Dt: 18-7-2000

(P.K. Sarkar, J)

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